

With this FINAL REJECTION, the rejection of all claims under 35 USC § 102(e) for anticipation is maintained based on the disclosure of Gold, et al., WO 99/01416 A2, published January 1999. This published PCT application corresponds to US Application Serial No. 08/885,944, both of which are owned by the Assignee of the instant application. The basis for the rejection is that the instant claims to a Method-of-Treating specific conditions alleviated by a 5HT₃ or neuronal nicotinic receptor antagonist are inherent in the publication's disclosure of treating the same diseases with the same compounds as NMDA receptor antagonists.

With this Response and Amendment, the Applicants amend instant Claim 14 to claim treatment of diseases which are not disclosed or taught to be treatable by the compounds of the instant invention. Gold, et al. does not teach treatment of "emesis, cerebellar tremor, and appetite disorders." Thus, the only remaining basis for rejection of the instant claims is obviated by the instant amendment. There is no prior art of record which discloses treatment of conditions alleviated by a 5HT₃ or neuronal nicotinic receptor antagonist with the compounds of the instant invention, nor is there any prior art of record which teaches treatment of "emesis, cerebellar tremor, and appetite disorders" with the compounds of the instant invention. Reconsideration and withdrawal of the prior art rejection for lack of novelty, or any other basis, is respectfully solicited.

* * * * *

Accordingly, entry of the present amendment, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned attorney has made an earnest effort to place this application into condition for immediate allowance. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

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Enclosure: Postal Card Receipt, and
Claim amendments.

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OFFICE OF PETITIONS

- 14 - (marked-up)

A method of Claim 1 wherein the condition treated or inhibited is selected from the group consisting of emesis, [anxiety disorders, schizophrenia, drug and alcohol abuse disorders, depressive disorders, cognitive disorders, Alzheimer's disease,] cerebellar tremor, [Parkinson's disease, Tourette's, pain,] and appetite disorders.

- 14 - (clean)

A method of Claim 1 wherein the condition treated or inhibited is selected from the group consisting of emesis, cerebellar tremor, and appetite disorders.